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RUEHGV/USMISSION GENEVA PRIORITY 1062

RUCPDO/DEPT OF COMMERCE WASHINGTON DC PRIORITY

RHMFUU/DEPT OF HOMELAND SECURITY WASHINGTON DC PRIORITY

RHMFUU/DEPT OF JUSTICE WASHINGTON DC PRIORITY

RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC PRIORITY

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SUBJECT: The Power of the Line: How the NIV Section Helps Protect  
IPR in Mexico

¶1. (U) Summary: Mexico's federal enforcement agencies continue to make improvements in intellectual property rights (IPR) protection and enforcement; however, IPR violations - including piracy, smuggling, and triangulation - occur with alarming regularity in Mexico. Some of these illicit activities are unwittingly facilitated by consular officers who issue visas to the violators. By understanding the scope of the problem, the U.S. interest in upholding regulations, and the power of existing law, nonimmigrant visa sections can be a powerful ally in the fight to protect IPR in Mexico.

#### BACKGROUND

¶2. IPR protection and enforcement is an issue of significant concern in Mexico, both because of the enormous volume of trade that takes place between the United States and Mexico as well as the proven ties between counterfeit and pirated goods and narco-traffickers and organized crime operating in Mexico. Because of the proximity of the U.S. to Mexico and the existing trade links between the U.S. and China, IPR violators commonly transit the U.S. with their illegal purchases.

¶3. Over a billion dollars a day in trade crosses the U.S./Mexico border, much of it legal and beneficial to both economies. However, an inestimable amount of cross-border goods makes its way to Mexico's black and gray markets. From unregulated vendors selling pirated DVDs for fifty cents each, to small vendors selling clothing, shoes, or perfumes purchased in the U.S. and brought into Mexico with false certificates of origin, to highly organized smugglers offering everything from stolen electronics to automatic weapons, the black market is an integral part of the Mexican economy and depends heavily on the U.S. to function.

#### Stories from the Visa Line

¶4. A successful trafficker requires a United States visa to transit, for example, through a U.S. airport on a buying trip to China or Taiwan, or to shop at the outlet malls in McAllen, TX. The stories below are examples of actual cases that consular officers have seen on the visa line and the types of cases new officers are trained to watch for.

#### Chinese Visas

¶5. A pattern of extensive international travel is usually a good sign in a visa interview, however consular officers in Embassy Mexico City nonimmigrant visa unit began to realize that in some cases consistent travel to China and/or Taiwan may indicate that the applicant is in fact a trafficker of smuggled goods. In one case an officer noticed that an applicant renewing his U.S. tourist visa had seven Chinese visas in his Mexican passport. The applicant told the interviewing officers that over the last three years he had traveled to China and Taiwan at least 50 times. When the officer asked the applicant why he made so many trips he showed the officer his fake "Gucci" wallet and "Rolex" watch, and said that he sold such items in his store in Tepito, a notorious black market area in Mexico City. The applicant used his U.S. visa both to travel back and forth from China, and to pick up goods once they had arrived in Los

Angeles. Similar tales have been told by other visa applicants stating that they applied for U.S. visas make travel to China easier and cheaper and to allow them to purchase goods in black markets in Los Angeles.

#### Triangulation

¶16. A common occupation listed for applicants in Mexico is "clothing sales" or "business owner." These are often legitimate vocations, but not infrequently a brief interview and a close examination of the applicant's passport and the NIV database will reveal more worrying activity. A common scenario would be as follows: An applicant works in an area flea market. She claims that she wishes to go across the border to buy new products in discounts stores with the goal of re-selling them in the flea market. When asked about payment of taxes, the applicant states that she pays approximately USD 15 in taxes at the border for the USD 500 worth of goods she purchased for resale. This scenario illustrates an illegal activity referred to as triangulation - the intentional obfuscation of the origin of a good in order to circumvent the costly tariff imposed by Mexican authorities on goods from the country of origin but not on NAFTA partners. Triangulation undermines U.S. Trade agreements by negating the advantage that American producers should have in Mexican markets. It is also illegal in the United States

Crime Begets Crime

¶17. Cases similar to the one described above, though on a larger scale also illustrate the link between trafficking in illegal goods and other illegal activity. In one such case, a married couple who frequently traveled to Los Angeles to buy significant quantities of discount clothing for resale in Mexico were issued visas based on their high solvency and regular travel. A few months after their visas were issued, posts' Fraud Prevention Unit (FPU) cancelled the

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visas when the husband was arrested for involvement with "Los Zetas" - a notorious criminal organization associated with drug cartels in Mexico. This case and others like it demonstrate that the willingness to participate in one illegal activity can indicate a proclivity for other illegal behavior.

#### Taking Action

¶18. In the cases described above Consuls issued visas to the applicants because there was no obvious "immigrant intent"; the crux of Section 214(b) of the Immigration and Nationality Act and the foundation on which consular officers adjudicate nonimmigrant visas. These applicants use their visas to travel to or through the United States and then return to their businesses in Mexico. At first blush, they appear to be easy renewals. Some of these applicants, however, are using their visas to contravene U.S. law and as such violate Section 214(b), which prohibits issuing visas whose purpose of travel is unlawful.

¶19. Working in conjunction with the economic section and Immigration and Customs Enforcement (ICE), the Investigative arm of IPR issues for DHS, consular officers presented a DVC to entry-level officers in consular sections throughout Mission Mexico, explaining the importance of IPR protection and enforcement, describing indicators that may suggest IPR violations, and reminding officers that per 9 FAM 41:31 N 4.1, visas should be refused if the officer has reason to believe or know that the applicant will use it to engage in unlawful activities, thus empowering consular officers to stop IPR violations when recognized at the visa window. This training and the attention it focused on the seriousness of IPR issues to the USG quickly changed how consular officers responded to these cases on NIV lines across Mission Mexico. Telltale warning signs are now investigated more carefully to determine if possible illegal activity is occurring. If it is, then the cases are refused. This additional training and management support for this new scrutiny has allowed consular officers to help proactively in achieving USG policy objectives and has assisted ECON and DHS in their efforts to present a united Mission-wide front in assisting the government of Mexico in the ongoing battle against IPR violations. (U)

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